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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,390	12/03/2003	Tom Ball	11952-4 KAM	5004

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EXAMINER

FRISTOE JR, JOHN K

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/725,390	Applicant(s) BALL, TOM	
	Examiner John K. Fristoe Jr.	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-21, 24, 26-46 and 48-50 is/are rejected.
- 7) ☒ Claim(s) 18, 22, 23 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/8/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 4/8/2004 is acknowledged by the examiner.

Specification

2. The disclosure is objected to because of the following informalities: on page 6, line 30, reference number 74 is referred to as the “head” and then on page 7, line 4, reference number 74 is referred to as the “end”. Multiple elements can not be referred to by the same reference number. Appropriate correction is required.

Claim Objections

3. Claims 37 and 37 (2nd occurrence) are objected to because two claims have the same claim number. Also there is no claim 47. The claims from the second occurrence of claim 37 through claim 46 must be renumbered so that the numbers are consecutive under the authority of 37 C.F.R. 1.126, the examiner has renumbered claims 37 (2nd occurrence) through 46 as claims 38-47, respectively. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The length of the housing is defined in claim 16 as “at least about 10.2 cm” and then it is further defined in claim 17 as “about 10.2 cm”. The limitation of claim 17 is broader

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than the limitation of claim 16 since the limitation of claim 17 could include measurements less than 10.2 cm. The limitation of claim 17 does not further limit Applicant's claimed invention.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10, 12-14, 24, 26-34, 37-40, 42-45, 49, and 50 are rejected under 35

U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,410,517 (Wall). Wall discloses a flow regulating device for a hose (29) comprising an open ended hollow housing (11 and 15) that has a c-shaped cross section (figure 3), a compression member (26), an actuator (14), the regulating device is capable of being mounted to a hose (29) without disconnecting the spigot or sprinkler (no. 1, lines 23-30), wherein the housing (11 and 15) is slidable along a hose (29), wherein the housing (11 and 15) has a length that inhibits angling (figure 2) of the hose (29), wherein the open ended housing (11 and 15) comprises a longitudinal slot (the space between the housing part 11 and housing part 15 in the open position), a sleeve (11 and 15) having a c-shaped cross section (figure 3), wherein the housing has a diameter that permits a hose (col. 1, line 27), wherein the housing (11 and 15) is capable of moving from an open position (when the lock element is undone and the housing elements are opened with respect to each other) to a closed position (figure 2), wherein the housing has an upper portion (11) and a lower portion (15) having a first slot (the space between the left sides of elements 11 and 15 in figure 3) and a second slot (the space between the right side of elements 11 and 15 in figure 3), a hinge (18), a

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releasable lock (22 and 23), an adjuster knob (14) that is integrally coupled (col. 2, lines 1-2) to a threaded shaft (13) and the compression member (26) is coupled (figure 6) to the threaded shaft (13), wherein the compression member (26) rotates relative to the threaded rod (13), a guide bracket (12) that is integral with the housing (11) for mounting the actuator, the guide bracket (12) has a threaded opening (11'), and wherein the regulating device is mounted to a hose (figure 1).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 15 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 3,410,517 (Wall) in view of U.S. Pat. No. 3,675,656 (Hakim). Wall discloses the above described regulating valve comprising a two-piece housing (11 and 15) but lacks a one piece housing with a longitudinal slot and the housing is curved. Hakim teaches a regulating valve comprising a housing (14, 18, 20, and 22) having a compression member (28), the housing having a longitudinal slot (the space between element 22 and 24), and the housing being curved between 135 degrees and 180 degrees (figure 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the regulating valve having a two-piece housing of Wall by making it a one piece housing with a longitudinal slot as taught by Hakim in order to reduce the required number of parts so that the cost of the regulating valve is

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decreased and to make it easier for the regulating valve to be used by just inserting the hose into the valve without opening the housing (col. 1, lines 18-23).

10. Claims 11, 16, and 17 as far as it is definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 3,410,517 (Wall) in view of an engineering expedient. Wall discloses the above described regulating valve comprising a two-piece housing (11 and 15) but lacks the length of the housing being a length of at least 10 cm and a diameter of at least 2.5 cm. One skilled in the art of regulating valves for water hoses would construct a housing for a valve that encompasses a water hose to a size that is capable of surrounding a hose. Also there seems to be no criticality to the sizes due to Applicant claiming multiple sizes for each the length and diameter of the housing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the housing of the regulating valve of Wall by constructing the valve with a certain length and diameter as an engineering expedient in order to enable the valve to encompass a water hose.

11. Claims 35, 36, 41, 46 and 47 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 3,410,517 (Wall) in view of U.S. Pat. No. 3,285,563 (Clarkson). Wall discloses the above described regulating valve comprising a two-piece housing (11 and 15), a bracket (12), and a compression member that is spherical but lacks the compression member being cylindrical with a flat end and a curved end and being able to retract into the bracket member. Clarkson teaches a regulating valve comprising a two piece housing (28 and 30), a bracket 12 integrally coupled to the housing (28), a compression member (80) having a flat end (86), a curved end (the bottom of member 80 in figure 1), and cylindrical surface (82), and the compression member (80) is retracted into the bracket (figure 1). It would have been obvious to one of ordinary skill

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in the art at the time the invention was made to modify the regulating valve having a spherical compression member that is not retracted into a bracket of Wall by making the compression member with a flat surface and having the compression member retracted into the bracket as taught by Clarkson in order to make the compression member easier to connect the to threaded rod and in order to not choke the flow passage when the regulating valve is in the open position.

12. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 3,410,517 (Wall) in view of U.S. Pat. No. 5,098,060 (Mogler et al.). Wall discloses the above described regulating valve comprising a two-piece housing (11 and 15) but lacks the housing being made of plastic. Mogler et al. teach a regulating valve having a housing (2 and 3) that is made of plastic (col. 1, line 37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the regulating valve having a housing of Wall by making the housing from plastic as taught by Mogler et al. in order to decrease the cost of the valve housing and to make the housing more durable.

Allowable Subject Matter

13. Claims 18, 22, 23, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 3,826,461 (Summerfield et al.) discloses a regulating valve comprising a cylindrical compression member having a flat surface and a curved surface.

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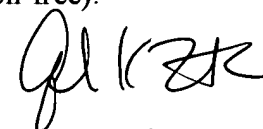
U.S. Pat. No. 3,042,067 (Hidding) discloses a regulating valve having a longitudinal slot.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926.

The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John K. Fristoe Jr.
Examiner
Art Unit 3751

JKF



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4/23/05